

P-999/C-93-90 ORDER ADOPTING SETTLEMENT AGREEMENT REGARDING LOCAL
EXCHANGE COMPANY ACCESS CHARGES FOR GTE, UNITED, AND VISTA, WITH
ONE MODIFICATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Commission Solicitation of
Comments Regarding Access Charges

ISSUE DATE: December 20, 1994

DOCKET NO. P-999/C-93-90

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PROCEDURAL HISTORY

On February 16, 1993, the Commission issued its ORDER APPROVING SETTLEMENT, REQUIRING NOTICE TO CUSTOMERS AND FILING OF TARIFFS, AND SOLICITING COMMENTS in Docket No. P-421/C-90-1184¹. In that Order the Commission resolved a dispute regarding access charges between AT&T Communications of the Midwest, Inc. (AT&T) and US WEST Communications, Inc. (US WEST). The Commission also solicited comments from interested parties regarding the process and principles for an overall resolution of access charge issues. The latter matter was assigned to the above-captioned docket.

On March 15, 1994, the Commission met to consider the comments filed in response to the Commission's solicitation. At that meeting, the Minnesota Independent Coalition (MIC) and Vista Telephone Company of Minnesota (Vista) proposed a joint plan for future procedures in this docket.

On March 18, 1994, the Commission issued its ORDER REQUIRING FILING. In that Order the Commission ordered MIC/Vista to submit a proposed procedure under which parties would meet on access charge structure issues and report to the Commission.

On March 22, 1994, MIC/Vista filed a written proposal.

On April 8, 1994, the Commission issued its ORDER APPROVING SETTLEMENT PROPOSALS WITH MODIFICATIONS. In that Order the Commission initiated an investigation of access charges. The Commission also approved separate settlement procedures for MIC/Vista and other participating parties and for US WEST. The Commission required the parties to fully develop eight issues during their negotiation process. The issues included: the basic principles governing access pricing; the methodology for access pricing; the continuation of the Carrier Common Line Charge (CCLC); possible restructuring of local transport; the relationship between access charges and other rates; incorporation of a high cost fund into access

¹ In the Matter of the Complaint of AT&T Communications of the Midwest Inc. Concerning Excessive Rates for Access Services Provided by US WEST Communications, Inc.

charges; revenue or income neutrality for LECs; and the minimization of swings in customer bills.

On August 4, 1994, the Commission issued its ORDER EXTENDING TIME LINES, granting the parties additional time to reach and submit a settlement.

On August 30, 1994, after a number of meetings, the parties filed two settlement agreements which were meant to address most outstanding issues regarding access charges. The first document was entitled Settlement Agreement Regarding Local Exchange Company Access Charges for Independent Local Exchange Carriers. This agreement was signed by the Department of Public Service (the Department), the MIC, AT&T, Sprint Communications Company L.P. (Sprint), MCI Telecommunications Corporation (MCI), and US WEST. This agreement is the subject of a separate Commission Order of even date.²

The second settlement agreement was entitled Settlement Agreement Regarding Local Exchange Company Access Charges for GTE Minnesota, Inc., GTE Midwest Incorporated, United Telephone Company of Minnesota and Vista Telephone Company of Minnesota. This agreement was signed by the Department, Contel of Minnesota, Inc. and GTE Midwest Incorporated (GTE), United Telephone Company of Minnesota (United), Vista Telephone Company of Minnesota (Vista), MCI, Sprint, AT&T, and US WEST. This agreement is the subject of this Order.

On October 10, 1994, the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) filed comments regarding both proposed settlements. The RUD-OAG indicated that although it did not sign the settlement documents, it did not oppose Commission approval of the settlements as being in the public interest.

On December 6, 1994, the two proposed settlements on access charges came before the Commission for consideration.

FINDINGS AND CONCLUSIONS

I. THE SETTLEMENT AGREEMENT

The Settlement Agreement concerning GTE, United, and Vista was really an amalgamation of three separate proposals for the three telephone companies known collectively as the Group Companies. The Settlement Agreement therefore contained common elements and elements individual to the three telephone companies.

A. The Common Elements

The following portions of the Settlement Agreement were applicable to each of the three Group Companies:

1. The companies would reduce their access rates through 1995, 1996, 1997, and possibly 1998.

² ORDER ADOPTING SETTLEMENT AGREEMENT REGARDING LOCAL EXCHANGE COMPANY ACCESS CHARGES FOR INDEPENDENT LOCAL EXCHANGE CARRIERS, Docket No. P-999/C-93-90.

2. The Group Companies requested the Commission to initiate a proceeding for review of access charges, commencing January 1, 1997.
3. AT&T, MCI, Sprint, and US WEST (in its capacity as a toll provider) would reduce toll charges in an amount commensurate with the access charge reductions.

AT&T would adjust its intrastate per minute message toll rates to reflect, on no less than a dollar for dollar basis, cost savings that it experiences in 1995, 1996, 1997, and possibly 1998, as a result of the access rate decreases, including any switched access rate reductions of US WEST.

MCI and Sprint would reduce their toll rates within 60 days of AT&T's toll rate reductions. MCI and Sprint would have the exclusive right to determine which rates they would reduce, except as otherwise limited under law.

US WEST would adjust its intrastate per minute message toll rates to reflect, on no less than a dollar for dollar basis, cost savings from the access rate decreases effected on or around January 1, 1995 for the Group Companies, and also on June 1, 1995, by GTE.

For the Group Company's switched access reductions made in 1996, 1997, and possibly in 1998, US WEST would reduce either (1) its intrastate long distance toll rates, (2) the switched access rate elements under separate consideration in this same docket, or (3) its Carrier Common Line Charge (CCLC), any of which would be without any offsetting rate increase.

4. The parties agreed that adoption of the Settlement Agreement would be in the public interest.

B. Elements Individual to the Three Companies

1. United

Under the Settlement Agreement, United would reduce its access rates effective January 1, 1995, 1996, and 1996, with a contingent reduction on January 1, 1998.

The parties agreed that United would partially offset the reduction initially by raising local rates by \$1.00 per access line (at the same time foregoing any increase to offset the elimination of the touchtone charge). After the initial phase, further necessary reductions would be determined by a complex formula.

2. GTE

Under the agreement, GTE would reduce its access rates January 1, 1995, June 1, 1995, January 1, 1996, and January 1, 1997, with a contingent decrease on January 1, 1998.

To offset the decreases, GTE would increase local rates, specifically business service, residential service, school service, semipublic paystations, and customer-owned pay telephone service, by \$1.00 per access line.

3. Vista

The parties to the Settlement agreed that Vista would reduce its switched access composite rate on January 1, 1995, 1996, and 1997, with a further reduction on January 1, 1998, if the

Commission does not order another switched access rate by that time.

Vista's current composite rate was based on rates set in its most recent rate case, Docket No. P-405/GR-93-2.

C. The Parties' Treatment of the Eight Issues Previously Raised by the Commission

The parties did not reach consensus on the eight issues articulated by the Commission in its April 8, 1994, Order. The parties stated that the Settlement was based upon a consideration of the eight issues, along with an agreement to revisit in 1997 the appropriate level of access charges and the methodology for setting future access charges.

II. COMMISSION ACTION

A. Adoption of the Settlement

The Commission agrees with the parties to the Settlement that the overall agreement is in the public interest. The Settlement represents a first step toward settling the difficult and important issues surrounding access charges.

Adoption of the Settlement will be in the best interests of the parties and consumers. As a result of the Settlement, a reduction in LEC access charges will be effected without time-consuming and expensive litigation. The agreement will result in a reduction in interLATA and intraLATA toll rates implemented by interexchange carriers. The Settlement is structured to minimize LEC rate increases. The agreement provides for Commission reevaluation of access charge issues at the end of the Settlement time span.

The Commission notes that the parties' agreement to reduce access charges means that LECs will experience a reduction in an important revenue source. A significant question is therefore raised by the Settlement: what, if any, revenue offsets will be necessary for LECs? The parties have begun the process of answering this question in the Settlement. The Commission will carefully monitor and assess the development of this issue as the Settlement is implemented.

B. The Commission's Eight Issues

Although the parties did agree on the basic terms necessary to arrive at an access charge agreement, they failed to meaningfully address the eight questions raised by the Commission in its April 8, 1994, Order. These questions focus on the major policy issues underlying access charges. By drafting the Settlement without reaching consensus on the eight issues, the parties have achieved a respite in the underlying investigation, but have not resolved the fundamental policy issues.

Because the Commission believes that the terms of the Settlement are reasonable and sound, the Commission will accept the proposed Settlement without a resolution of the eight basic issues. The Commission will, however, carefully monitor the implementation of the Settlement. If the underlying issues have not been resolved to the Commission's satisfaction at the end of the Settlement period, the Commission will ensure a resolution is reached, whether by contested case proceeding, investigation, or by some other means. The Commission will at that time have further understanding of telecommunications developments and the benefit of the parties' experience under the Settlement. The Commission will use the knowledge it has gained during the Settlement period to ensure a final satisfactory resolution of the fundamental issues underlying access charges.

The Commission clarifies that it is not **at this time** granting the parties' request to initiate an investigation beginning in January of 1997.

C. Modification of the Settlement

The Commission finds that one modification to the Settlement is necessary. Under the Settlement as drafted, US WEST would adjust its intrastate intraLATA toll rates to reflect the access charge decreases for the first year. For the remainder of the Settlement period, US WEST would decide if the reduction would be reflected in toll rates, switched access transport rates, or in the CCLC. The Commission finds that the Settlement should be modified to require US WEST to reflect access charge decreases in the CCLC throughout the Settlement period.

US WEST's application of access charge reductions to the CCLC is preferable to other methods because it is likely to have a multiplier effect. IXC's which pay access charges to US WEST will realize reduced access expense. These IXC's are in turn likely to reduce their rates to reflect the access charge reduction, particularly in light of the move to competition in the intraLATA 1+ arena. The reduction in US WEST's CCLC is thus likely to reduce not only the access rates charged by US WEST, but also the toll rates charged by other IXC's.

US WEST's application of the access charge reduction to its CCLC will bring about lower rates in an area of service which faces little or no competition. In contrast, intraLATA toll and switched access transport are or will be experiencing increasing competition. The greater competition in these areas of service is likely to stimulate a decrease in rates. Without such a market stimulus, the CCLC is unlikely to experience rate decreases unless US WEST is required to adjust for access rate reductions.

US WEST's adjustment to its CCLC to reflect access charge reductions would thus have a favorable effect on rates in this area and on IXC's' toll rates. The Commission will therefore modify the Settlement to require US WEST to apply access charge reductions to the CCLC for the entire Settlement period.

The Commission adopts the parties' September 1, 1994, Settlement with one modification: US WEST shall apply access charge reductions to its CCLC, on a dollar for dollar basis, for the length of the Settlement period.

ORDER

1. The Commission adopts the parties' attached September 1, 1994, Settlement with one modification: for the term of the Settlement US WEST shall apply, on a dollar for dollar basis, all access charge reductions to its CCLC.
2. Within 10 days of the date of this Order, United, GTE, and Vista shall file revised tariff pages reflecting 1995 access charge reductions.
3. Within 10 days of the date of this Order, United shall file tariff pages reflecting the \$1 per month increase in local rates, to be effective at the same time as the access charge reductions. United shall notify its local exchange and access customers of the rate changes approved by the Commission with the first customer bills reflecting these rate changes. United shall file its proposed local customer notice within 5 days of this Order.
4. Vista shall notify its access customers of the rate changes approved by the Commission at the time it issues the first customer bill reflecting these rate changes.

5. GTE shall notify its access customers of the rate changes approved by the Commission at the time it issues its first customer bill reflecting these rate changes.
6. On or before April 15, 1995, GTE shall file tariff pages reflecting the \$1 per access line increase and additional decreases to access charges to take effect June 1, 1995.
7. GTE shall notify its local exchange customers of the rate changes approved by the Commission at the time it issues its first customer bill reflecting these rate changes. GTE shall file its proposed customer notice at least 60 days before the change in rates takes effect.
8. United, GTE, and Vista shall file proposed 1996 access charges by November 1, 1995, and proposed 1997 access charges by November 1, 1996.
9. In accordance with the Settlement, AT&T shall file price list reductions to its message toll service reflecting reductions which will take effect no later than 60 days after the LEC reductions.
10. Within 60 days of scheduled access charge reductions, the Department of Public Service shall inform the Commission of any LEC that is not in compliance with the Order.
11. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)